

Time & Notice Requirements

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5.1 General Rules Governing Notice in Child Protective Proceedings

A summons may be issued and served on a party before any proceeding. MCR 5.920(B)(1). The parties in a child protective proceeding are the petitioner, child, respondent-parent, and other parent or guardian. MCR 5.903(A)(13)(b). A summons is required for trials, and for hearings on termination of parental rights. MCR 5.920(F). It must be served on the parent or person with whom the child resides, other than a court-ordered custodian. MCR 5.920(B)(2)(c). It may be issued requiring the appearance of any other person whose presence is necessary in the judge's opinion. MCL 712A.12; MSA 27.3178(598.12).*

*See Form JC 21 (summons) and Section 5.4, below (issuance and service of summons).

Section 5.2

*See Section 5.4(B), below (manner of service of summonses).

*See Section 5.11, below (notices of hearings).

*See Section 5.14, below.

*See Section 5.4(B), below (manner of service of summonses).

*See Form JC 45.

If the person summoned is not a parent or, in the case of a hearing to terminate parental rights, a respondent, the parent or respondent must be notified as required by MCR 5.920(B)(4).^{*} MCR 5.920(B)(2)(c).

There are a few exceptions to these rules:

- F** If a prior court appearance of the party in the case was in response to service by summons, notice of trial or hearing to terminate parental rights to that party may be by notice of hearing. MCR 5.920(F).^{*}
- F** After a party's first appearance before the court, subsequent notices of hearings may be served on the party or the party's attorney. MCR 5.920(F).^{*}
- F** Substituted service is appropriate in limited circumstances where personal service is impracticable or cannot be achieved. MCR 5.920(B)(4)(b)–(c).^{*}

For proceedings other than trials or hearings to terminate parental rights, a notice of hearing^{*} may be used. MCR 5.920(A).

5.2 Definitions of “Parent” and “Respondent”

*See Section 9.12(A) for the definition of “father.”

In a child protective proceeding, the “respondent” is the “parent” who is alleged to have committed an offense against a child. MCR 5.903(C)(8). “Parent” means a person who is legally responsible for the control and care of the minor, including a mother, father, guardian, or a custodian (other than a custodian of a state facility, guardian ad litem, or court-ordered custodian). MCR 5.903(A)(12). However, for purposes of hearings to terminate parental rights, respondent is more narrowly defined to include only the natural or adoptive mother of the child, and/or the “father” of the child.^{*} For purposes of termination proceedings, “respondent” does not include other persons to whom legal custody has been given by court order, persons who are acting in the place of the mother or father, or other persons responsible for the control, care, and welfare of the child. MCR 5.974(B)(1)–(2).

5.3 Requirements for Valid Orders Directed to Parent or Other Person

*These sections of the Juvenile Code are discussed in Sections 5.4 and 5.14, below.

An order directed to a parent or other person shall not be binding unless the parent or other person has been given an opportunity for a hearing pursuant to the issuance and service of a summons or notice as provided in sections 12 and 13 of the Juvenile Code. MCL 712A.18(4); MSA 27.3178(598.18)(4).^{*}

Note: This rule is significant for purposes of collecting reimbursement of the costs of out-of-home care (see Section 13.27), and for other orders affecting adults pursuant to MCL 712A.6; MSA 27.3178(598.6), and MCL 712A.6b; MSA 27.3178(598.6b) (see Section 3.19).

5.4 Issuance and Service of Summons

After a petition has been filed, the court may issue a summons briefly reciting the substance of the petition and requiring the person having custody or control of the child, or with whom the child may be, to appear personally with the child before the court at the stated time and place. If the person summoned is other than the parent or guardian, then the parent or guardian, or both, must be notified of the time and place of the hearing by personal service. A summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary. MCL 712A.12; MSA 27.3178(598.12).

See *In re Brown*, 149 Mich App 529, 534–42 (1986) (statutory requirements for issuance and service of summons to parent with custody, or notice of the petition and the time and place of hearing to a noncustodial parent, are jurisdictional), and *In re Andeson*, 155 Mich App 615, 618–19 (1986) (proceedings were not void, where parent was properly served with summons prior to adjudicative hearing, the hearing was adjourned, and parent was later mailed a notice of hearing but failed to appear).

A summons may be issued and served on a party (petitioner, child, respondent-parent, or other parent or guardian) before any proceeding in juvenile court. MCR 5.920(B)(1). The court *shall* direct the service of the summons in the following circumstances:

- F The summons must be issued and served on the parent or person with whom the child resides, other than a court-ordered custodian, directing such person to appear with the child for trial. If the person summoned is not the child's parent, the parent must be notified by service as provided in MCR 5.920(B)(4).^{*} This notification must be a summons if the person served is a "respondent." See *In re Brown*, 149 Mich App 529, 534–42 (1986).
- F The summons must be issued and served on the parent or person with whom the child resides, other than a court-ordered custodian, for a hearing on a petition seeking the termination of parental rights. If the person served is not the respondent, respondent shall be notified by service as provided in MCR 5.920(B)(4).^{*}

MCR 5.920(B)(2)(a) and (c).

^{*}See Section 5.4(B), below (manner of service of summonses).

^{*}See Section 5.4(B), below (manner of service of summonses).

A. Contents of Summons

*See Section 5.15, below (appearance of child at trial or hearings on termination of parental rights).

The summons must direct the person to whom it is addressed to appear with the minor (unless the minor's appearance has been excused*) at a time and place specified by the court and must:

- (a) identify the nature of the hearing;
- (b) explain the right to an attorney and to a trial by a judge or jury;
- (c) include a prominent notice that the hearings could result in termination of parental rights; and
- (d) have a copy of the petition attached to it.

MCR 5.920(B)(3)(a)–(d).*

*See Form JC 21, which contains the required notices.

B. Manner of Service of Summons

The petitioner is “charged with providing that service of process is accomplished in accordance with the court rules.” *In re Adair*, 191 Mich App 710, 715 (1991). See also MCL 712A.13; MSA 27.3178(598.13) (judge may designate peace officer or suitable person to serve summons, notice, or court orders).

MCR 5.920(B)(4)(a)–(d) discuss the manner of service:*

- (a) Unless personal service of the summons is impracticable or cannot be achieved, the summons must be personally served.
- (b) If personal service of the summons is impracticable or cannot be achieved, the court may direct that it be served by registered or certified mail addressed to the last known address of the party, return receipt requested.
- (c) If the court finds that service cannot be made because the whereabouts of the person has not been determined after reasonable effort, the court may direct any manner of substituted service, including service by publication.
- (d) If personal service of a summons is unnecessary, the court may direct that it be served in a manner reasonably calculated to provide notice.

*See Forms JC 21, 12A, 12B, 32, 46, and 47.

See MCL 712A.13; MSA 27.3178(598.13) (statutory service provision). In *In re Mayfield*, 198 Mich App 226, 232–33 (1993), the Court of Appeals first noted that violations of the statutory notice provisions constitute jurisdictional defects, while violation of court-rule requirements do not, as the jurisdiction of the “juvenile court” may be established by reference to statute and may not be expanded by court rule. Noncustodial parents must receive proper notice. MCL 712A.13; MSA 27.3178(598.13), provides for alternative methods of service sufficient to confer jurisdiction in child protective proceedings. The record in *Mayfield* established that the trial court mailed notice of the adjudicative hearing and a copy of the petition, and notice of the dispositional hearing, to the putative father's last-known

address. Although these notices were returned marked “no such address,” the Court of Appeals held that the trial court satisfied requirements for substituted service under MCL 712A.13; MSA 27.3178(598.13). The court had subject matter jurisdiction of the proceeding and jurisdiction over the respondent mother (who had been personally served with a summons prior to trial). Therefore, the trial court’s orders were not void. See also *In re Adair*, 191 Mich App 710, 713–15 (1991) (court failed to determine that reasonable efforts were made by petitioner to locate parent before using alternative method of service).

C. Time Requirements for Service of Summons

MCR 5.920(B)(5)(a)–(c) provide that:

(a) a summons must be personally served at least:

- (i) 14 days before a hearing that seeks to terminate parental rights or 14 days before a permanency planning hearing,
- (ii) 7 days before trial or 7 days before a child protective dispositional review hearing,
- (iii) 3 days before any other hearing;

(b) if the summons is served by registered mail, it must be sent at least 7 days earlier than subrule (a) requires for personal service of a summons if the party to be served resides in Michigan, or 14 days earlier than required by subrule (a) if the party to whom the summons is addressed resides outside of Michigan; and

(c) if service is by publication, the published notice, which does not require publication of the petition itself, shall appear in a newspaper in the county where the party resides if known, and if not, in the county where the action is pending. The published notice must appear one or more times 21 days before a hearing as set forth in subrule (a)(i), 14 days before trial or hearing as set forth in subrule (a)(ii), or 7 days before any other hearing.

Note 1: Sufficient “lead time” for the publication of notices in newspapers should be considered. Depending upon the county, a newspaper may require as much as two weeks’ “lead in” prior to publication.

MCL 712A.13; MSA 27.3178(598.13), also contains certain time requirements for service of process, which differ from those contained in the court rule:

F personal service must be effected at least 72 hours before the date of a hearing;

- F registered mail must be mailed at least five days before the date of hearing if the recipient is in-state and 14 days before the hearing if out-of-state; and
- F publication must be made once in some newspaper printed and circulated in the county where the court is located at least one week before the time fixed in the summons or notice for the hearing.

Note 2: Because time requirements are procedural, and because the time requirements in the court rule are somewhat longer, in some instances, than those contained in the statute, it is recommended that the time requirements in the court rule be followed. See MCR 1.104 (rules of practice in statute superseded by court rule).

D. Subsequent Notices After a Failure to Appear

When persons whose whereabouts are unknown fail to appear in response to notice by publication or otherwise, the court need not give further notice by publication of subsequent hearings except a hearing on the termination of parental rights. MCR 5.921(E).

5.5 Persons Entitled to Notice of Hearings in Child Protective Proceedings

*See Section 5.6, below, for a discussion of the notice requirements for these hearings. See Section 20.4 for notice requirements in cases involving Indian children.

Notice of a preliminary hearing or an emergency removal hearing must be given to the parent of the child as soon as the hearing is scheduled. MCR 5.920(C)(2)(b). For subsequent hearings other than dispositional review hearings, permanency planning hearings, and hearings on petitions requesting termination of parental rights,* the court must ensure that the following persons are notified of each hearing:

- F the respondent. For purposes of abuse or neglect proceedings in which termination of parental rights is not requested, “respondent” means the parent who is alleged to have committed an offense against the child. MCR 5.903(C)(8);
- F a parent or guardian, if any, other than respondent;
- F the attorney for the respondent;
- F the child or the attorney for the child;
- F the petitioner;
- F the guardian ad litem or a party appointed pursuant to the court rules; and
- F any other person the court may direct to be notified.

MCR 5.921(B)(1)(a)–(g).

Note: The court is required to appoint a “lawyer-guardian ad litem” for the child. In some circumstances, the court may also appoint an “attorney,” and/or a “guardian ad litem.” See MCL 712A.13a(1)(b), (e), and (f); MSA 27.3178(598.13a)(1)(b), (e), and (f). For purposes of a required notice, “attorney” includes “lawyer-guardians ad litem.” The appointment of counsel for a child is discussed in detail in Sections 7.10–7.13.

5.6 Persons Entitled to Notice of Dispositional Review Hearings, Permanency Planning Hearings, and Hearings to Terminate Parental Rights

Prior to a dispositional review hearing, permanency planning hearing, or hearing to terminate parental rights, the court must ensure that the following persons are notified in writing:

- F the agency responsible for the care and supervision of the child, which shall advise the child of the hearing if the child is 11 years of age or older;
- F the foster parent or custodian of the child;
- F if parental rights have not been terminated, the parents of the child;
- F if parental rights have not been terminated, the attorney for the respondent-parent(s);
- F the guardian of the child;
- F the guardian ad litem of the child;
- F a “nonparent adult” who has been required to comply with the Case Service Plan;*
- F the attorney for the child;
- F the prosecuting attorney (if she or he has appeared in the case);
- F the attorneys for each party;
- F the child (if 11 years of age or older);
- F the elected* leader of the Indian tribe (if tribal affiliation has been determined); and
- F other persons as the court may direct.

MCL 712A.19(5)(a)–(j); MSA 27.3178(598.19)(5)(a)–(j), MCL 712A.19a(3)(a)–(i); MSA 27.3178(598.19a)(3)(a)–(i), MCL 712A.19b(2)(a)–(i); MSA 27.3178(598.19b)(2)(a)–(i), MCR 5.921(B)(2)(a)–(k), and MCR 5.921(B)(3).

*This requirement is effective July 1, 1999. See 1998 PA 530.

*MCR 5.921(B)(2)(j) requires “any tribal leader” to be notified.

Note: The court is required to appoint a “lawyer-guardian ad litem” for the child. In some circumstances, the court may also appoint an “attorney,” and/or a “guardian ad litem.” See MCL 712A.13a(1)(b), (e), and (f); MSA 27.3178(598.13a)(1)(b), (e), and (f). For purposes of a required notice, “attorney” includes “lawyer-guardians ad litem.” The appointment of counsel for a child is discussed in detail in Sections 7.10–7.13.

*These requirements are effective March 1, 1999. See 1998 PA 479.

*See Sections 13.18 and 13.20 for a detailed discussion of these requirements.

5.7 Special Notice Provisions for Physicians*

If the child has been placed outside his or her home and the Family Independence Agency is required to review the case with the child’s physician pursuant to MCL 712A.18f(6); MSA 27.3178(598.18f)(6), then in any judicial proceeding to determine whether the child will be returned home the court must allow the physician to testify regarding the Case Service Plan. The court must notify the physician of the time and place of the hearing. MCL 712A.18f(7); MSA 27.3178(598.18f)(7). This requirement is applicable to hearings to review the child’s initial placement, dispositional hearings, dispositional review hearings, and permanency planning hearings.

The FIA must review a child’s case with the child’s attending or primary care physician if the child has been diagnosed with:*

- (a) failure to thrive;
- (b) Munchausen Syndrome by Proxy;
- (c) Shaken Baby Syndrome;
- (d) a bone fracture that is diagnosed as being the result of abuse or neglect; or
- (e) drug exposure.

MCL 712A.18f(6)(a)–(e); MSA 27.3178(598.18f)(6)(a)–(e).

5.8 Special Notice Provisions for Noncustodial Parents

A mother or father without physical custody of the minor and whose parental rights over the minor have not been terminated must be notified of the first hearing on the petition in a child protective proceeding. MCR 5.921(C). The noncustodial parent must be personally served with notice of the hearing and a copy of the petition. See MCL 712A.12; MSA 27.3178(598.12), and *In re Miller*, 182 Mich App 70, 73 (1990).

Where the child’s putative father failed to establish paternity as required by MCR 5.903(A)(4), he was not entitled to personal service of notice and a copy of the petition as a noncustodial parent. *In re Gillespie*, 197 Mich App 440, 445–46 (1992). But see *In re Mayfield*, 198 Mich App 226, 232–33 (1993), and *In re Adair*, 191 Mich App 710, 713–15 (1991), discussed in Section 5.4(B), above.

5.9 Special Notice Provisions for Putative Fathers

If, at any time during the pendency of a proceeding, the court determines that the minor has no father as defined in MCR 5.903(A)(4), the court may, in its discretion, take initial testimony on the tentative identity and address of the natural father. Form JC 04 allows for identification of a child's father as putative. MCR 5.921(D) and MCR 5.921(D)(1).*

*See Section 9.12 for the applicable definitions and procedures.

If the court finds probable cause to believe that an identifiable person is the natural father of the minor, the court must direct that notice be served on that person as provided in MCR 5.920. MCR 5.921(D)(1). Form JC 21 (Summons: Order to Appear) contains the applicable notice for putative fathers.*

*See Section 5.11, below.

5.10 Special Notice Provisions for "Absent Parents"

In child protective proceedings, one parent is often absent from the household. In addition to the special procedures for notification of putative fathers and noncustodial parents,* there are several notice provisions that must be referenced when the whereabouts of one of the child's parents are unknown.

*See Sections 5.9 (putative fathers) and 5.8 (noncustodial parents), above.

The statutory requirements for notice of the petition and the time and place of hearings to noncustodial parents are jurisdictional. *In re Brown*, 149 Mich App 529, 534–42 (1986). However, if the court finds that service cannot be made because the whereabouts of the person has not been determined after reasonable effort, the court may direct any manner of substituted service, including service by publication. MCR 5.920(B)(4)(c). See also MCL 712A.13; MSA 27.3178(598.13) (statutory service provision), *In re Mayfield*, 198 Mich App 226, 232–33 (1993) (court obtained jurisdiction over putative father by mailing notice of the adjudicative hearing and copy of petition, and notice of dispositional hearing, by first-class mail to his last-known address; although notices were returned marked "no such address," court satisfied requirements for substituted service), and *In re Adair*, 191 Mich App 710, 713–15 (1991) (court failed to determine that reasonable efforts were made by petitioner to locate parent before using alternative method of service).

Before resorting to substituted service, the court must be satisfied that it is necessary. An affiant (usually a process server) must show what efforts were made. The court may then, in an appropriate case, conclude that these efforts were "reasonable" and order substituted service.*

*See Forms JC 46 and JC 47.

If service is by publication, the published notice, which does not require publication of the petition itself, must appear in a newspaper in the county where the party resides if known, and if not, in the county where the action is pending, one or more times 14 days before trial or seven days before a hearing. MCR 5.920(B)(5)(c).

When persons whose whereabouts are unknown fail to appear in response to notice by publication or otherwise, the court need not give further notice by publication of subsequent hearings except a hearing on termination of parental rights. MCR 5.921(E).

5.11 Time Requirements for Notice of Hearings

Generally, notices of hearings must be given in writing or on the record at least seven days prior to the hearing. MCR 5.920(C)(1). However, there are several exceptions to this general rule:

- F notice of a preliminary hearing or an emergency removal hearing must be given to the parent of the child as soon as the hearing is scheduled, and notice may be in person, in writing, on the record, or by telephone. MCR 5.920(C)(2)(b);
- F notice of a permanency planning hearing must be given in writing at least 14 days before the hearing. The notice must include a statement that the hearing may result in further proceedings to terminate parental rights.* MCR 5.920(C)(3)(a) and MCL 712A.19a(3); MSA 27.3178(598.19a)(3); and
- F notice of a hearing on a petition requesting to terminate parental rights must be given in writing at least 14 days before the hearing. MCR 5.920(C)(3)(b) and MCL 712A.19b(2); MSA 27.3178(598.19b)(2).

When a party fails to appear in response to a notice of hearing, the court may order the party's appearance by summons or subpoena. MCR 5.920(C)(4). In *In re Render*, 145 Mich App 344, 349–50 (1985), the Court of Appeals found a due process violation where an incarcerated parent received notice but failed to appear, the parent's counsel did not know that the parent was incarcerated until the day of the hearing, but the court proceeded with a dispositional hearing. The Court of Appeals stated that the trial court should have made an effort to get the incarcerated parent to the courtroom. A party's silence after receipt of a notice of hearing does not constitute a waiver of notice. *Id.*, at 350.

5.12 Waiver of Notice of Hearing

If a party appears without having been properly served, that party may waive notice of hearing or service of process.* See, generally, *In re Slis*, 144 Mich App 678, 683–84 (1985). A waiver may also be obtained when service of process was untimely. MCR 5.920(E) states that the waiver must be in writing and the party must be advised as set forth in MCR 5.920(B)(3):

- F of the nature of the hearing;
 - F of the right to counsel, retained or appointed;
 - F of the right to trial by judge or jury; and
 - F that the plea could result in termination of the respondent's parental rights;
- and must be served with a copy of the petition.

*This statement is included in Form JC 45.

*See Form JC 23, which contains the required notices.

Note: Obtaining a written waiver of notice of hearing at the conclusion of a hearing during the dispositional phase of proceedings (except where proceedings to terminate parental rights will be initiated) may be expedient. Respondents often move during the dispositional phase of child protective proceedings, and obtaining a written waiver of notice prior to the hearing date eliminates later problems associated with locating those respondents who have moved in the interim.

5.13 Subpoenas

MCR 5.920(D)(1)–(3) state that:

- (1) The attorney for a party or the court on its own motion may cause a subpoena to be served upon a person whose testimony or appearance is desired.
- (2) It is not necessary to tender advance fees to the person served a subpoena in order to compel attendance.
- (3) Except as otherwise stated in this subrule, service of a subpoena is to be as provided in MCR 2.506.*

*See Form
MC 11.

5.14 Subsequent Notices After First Appearance in Family Division

After a party's first appearance before the court, subsequent notices of proceedings and pleadings shall be served on that party or, if the party has an attorney, on the attorney for the party. Also, a summons must be served before trial or termination hearing unless a prior court appearance of the party in the case was in response to a service by summons. MCR 5.920(F).

5.15 Appearance of Child at Trials or Hearings to Terminate Parental Rights

The court may direct that the child's appearance in court at a trial or hearing to terminate parental rights is unnecessary. MCR 5.920(B)(2)(a) and (c). However, because a child who is 11 years old or older is entitled to notice of trial and notice of hearing to terminate parental rights, presumably the child is entitled to appear at either proceeding if he or she wishes. See Sections 5.5 and 5.6, above.

5.16 Adjournments and Continuances in Child Protective Proceedings

*But see MCR 5.965(B)(1) and 5.965(C)(1), explained in Section 7.5, which allow the court to adjourn a preliminary hearing in certain circumstances without adhering to the time requirements stated here.

The court shall adjourn a hearing or grant a continuance in a child protective proceeding only for good cause with factual findings on the record and not solely upon stipulation of counsel or for the convenience of a party.* In addition to the factual finding of good cause, the court shall not adjourn the hearing or grant a continuance unless one of the following is *also* true:

(a) The motion for adjournment or continuance is made in writing not less than 14 days before the hearing, or

(b) The court grants the adjournment or continuance upon its own motion after taking into consideration the child's best interests. An adjournment or continuance granted under this subdivision shall not last more than 28 days unless the court states on the record the specific reasons why a longer adjournment or continuance is necessary.

MCL 712A.17(1)(a)–(b); MSA 27.3178(598.17)(1)(a)–(b).

The court rule governing adjournments and continuances, MCR 5.923(G), states that at each stage of a child protective proceeding, the court must adhere to the time limits specified in the rules. Adjournments or continuances of trials or hearings shall be granted only:

(1) on written motion of a party filed no later than 14 days prior to the hearing, or

(2) on motion of the court for good cause, for a period not to exceed 28 days, taking into consideration the best interests of the child.

MCR 5.923(G)(1)–(2). Thus, the court rule does not require factual findings of good cause to be made on the record, and requires good cause for the adjournment or continuance only when the motion is made by the court.

Note: The statutory amendment became effective March 31, 1998. See 1997 PA 169. The court rule provisions were ordered to be effective April 1, 1998. See 456 Mich ccxii–ccxiii, ccxv (1998). Therefore, the court rule provisions governing adjournments and continuances supersede those in the statute. MCR 1.104.

*New time requirements are in italics in the table below.

5.17 Table of Time and Notice Requirements in Child Protective Proceedings*

Note on terminology used in this table: The court is required to appoint a “lawyer-guardian ad litem” for the child. In some circumstances, the court may also appoint an “attorney,” and/or a “guardian ad litem.” See MCL 712A.13a(1)(b), (e), and (f); MSA 27.3178(598.13a)(1)(b), (e), and (f). For purposes of a required notice, “attorney” includes “lawyer-guardians ad litem.” The appointment of counsel for a child is discussed in detail in Sections 7.10–7.13.

The following table contains time and notice requirements only; for contents of notices, see the appropriate sections. For waiver of notice requirements, see Section 5.12, above. To compute time periods, see MCR 1.108. For court holidays, see MCR 8.110(D)(2).

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Reporting Suspected Abuse or Neglect	Oral report must be made immediately. Written report must be filed with the FIA within 72 hours of the oral report.	MCL 722.623(1); MSA 25.248(3)(1). See Section 2.9
Investigating Suspected Abuse or Neglect	Report must be referred to the appropriate agency and/or an investigation must be commenced within 24 hours.	MCL 722.628(1); MSA 25.248(8)(1). See Sections 2.10–2.12
Mandatory Petitions in Cases of Severe Physical or Sexual Abuse	<i>FIA must file petition within 24 hours after determining that child was severely physically injured or sexually abused.</i>	<i>MCL 722.637; MSA 25.248(17).</i> See Section 2.24
Preliminary Inquiries	May be conducted at any time. There is no notice requirement.	MCR 5.962(A). See Section 6.11

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Preliminary Hearings	<p>Hearing must commence within 24 hours after child is taken into court custody, excluding Sundays and holidays, unless adjourned for good cause shown, or child must be released.</p> <p><i>If a mandatory petition was filed alleging severe physical or sexual abuse, a hearing must be held within 24 hours of the filing, or on the next business day after the filing.</i></p> <p>Notice of hearing must be given to the parent in person, in writing, on the record, or by telephone as soon as the hearing is scheduled.</p>	<p>MCR 5.965(A). See Section 7.4</p> <p><i>MCL 712A.13a(2); MSA 27.3178(598.13a)(2).</i> See Section 7.4</p> <p>MCR 5.920(C)(2)(b). See Sections 5.5 and 5.10</p>
Identification of Appropriate Relative Placement	<p><i>The supervising agency must identify, locate, and consult with the child's relatives within 30 days of the child's removal to determine appropriate placement.</i></p> <p><i>Within 90 days of removal, the supervising agency must make and document in writing its placement decision and provide written notice of the decision to the child's attorney, guardian, guardian ad litem, mother, father, the attorneys for the mother and father, each relative who expresses an interest in caring for the child, the child if he or she is old enough to express an opinion regarding placement, and the prosecuting attorney.</i></p>	<p><i>MCL 722.954a(2); MSA 25.359(4a)(2).</i> See Section 8.12(B)</p> <p><i>MCL 722.954a(2)(a)–(b); MSA 25.359(4a)(2)(a)–(b).</i> See Section 8.12(B)</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Review of Supervising Agency's Initial Placement Determination	<p><i>Persons notified of the initial placement decision may request written documentation of the determination within 5 days of the notice.</i></p> <p><i>Child's attorney may petition the court for review within 14 days after the date of the written placement decision, and a review hearing on the record must commence within 7 days after the petition is filed.</i></p>	<p><i>MCL 722.954a(3); MSA 25.359(4a)(3).</i> See Section 8.12(B)</p> <p><i>MCL 722.954a(3); MSA 25.359(4a)(3).</i> See Section 8.12(B)</p>
Initial Service Plan, Criminal Record Check, Central Registry Clearance, and Home Study	<p>The FIA must complete an initial service plan within 30 days of placement.</p> <p><i>If the child is placed in a relative's home, the FIA must conduct a criminal record check and central registry clearance before or within 7 days of placement, and the FIA must submit a home study to the court within 30 days of placement.</i></p>	<p>MCR 5.965(C)(6) and MCL 712A.13a(8)(a); MSA 27.3178(598.13a)(8)(a). See Section 8.8</p> <p><i>MCL 712A.13a(9); MSA 27.3178(598.13a)(9).</i> See Section 8.2</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Reviews of Change of Child's Placement in Foster Care	<p><i>Unless the foster parent requests or agrees to the change in placement, it must occur less than 30 days after the child's initial removal from home, or less than 90 days if the new placement is with a relative. Removal may occur at any time the FIA has reasonable cause to suspect sexual abuse, nonaccidental physical injury, or substantial risk of harm to the child's emotional well-being.</i></p> <p><i>Foster parents may appeal to the Foster Care Review Board within 3 days of notice of the intended move, and the FCRB must investigate and report to the foster parents, parents, and court within 3 days after receipt of the appeal.</i></p> <p><i>If necessary, the court must hold a hearing no sooner than 7 or later than 14 days after notice from the FCRB. Notice of hearing must be given to the foster parents, interested parties, and prosecuting attorney (if he or she has appeared).</i></p>	<p><i>MCL 712A.13b(1)(b); MSA 27.3178(598.13b)(1)(b), and MCL 712A.13b(7); MSA 27.3178(598.13b)(7). See Sections 8.13–8.14</i></p> <p><i>MCL 712A.13b(2)(b) and (3); MSA 27.3178(598.13b)(2)(b) and (3). See Section 8.15</i></p> <p><i>MCL 712A.13b(5); MSA 27.3178(598.13b)(5). See Section 8.16</i></p>
Demand for Jury Trial	<p>Written demand for jury trial shall be filed within 14 days after court gives notice of the right to jury trial or 14 days after the filing of appearance of counsel, whichever is later, but no later than 7 days before trial. The court may excuse a late filing in the interest of justice.</p>	<p>MCR 5.911(B). See Section 9.11</p>
Demand for Trial by Judge (Rather Than Referee)	<p>Written demand for trial by judge rather than referee shall be filed within 14 days after court gives notice of the right to trial by a judge or 14 days after the filing of appearance of counsel, whichever is later, but no later than 7 days before trial. The court may excuse a late filing in the interest of justice.</p>	<p>MCR 5.912(B). See Section 9.11</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Motions to Suppress Evidence	<p>Motion must be filed within 7 days of trial or, in court's discretion, at trial.</p> <p>Delivery of motion must be made at least 7 days before hearing, and of the response within 3 days before hearing. If service is by mail, add 2 days to these deadlines. For good cause, court may set different periods for filing and serving motions.</p> <p>7 days' written or record notice of the hearing date must also be given to the child, child's attorney, child's parent or guardian, and prosecutor.</p>	<p>MCR 5.922(C). See Section 9.4</p> <p>MCR 5.922(C), 5.920(C)(1), 2.119(C), and 2.107(C)(1)–(2). See Sections 5.11 and 9.4(B)</p> <p>MCR 5.921(B), 5.920(C)(1). See Section 5.11</p>
Motions for Adjournment or Continuance	<p><i>Adjournments or continuances may be granted only on motion of a party filed no later than 14 days before the hearing, or on motion of the court for good cause and for a period not to exceed 28 days, taking into consideration the best interests of the child.</i></p>	<p>MCR 5.923(G)(1)–(2) and MCL 712A.17(1); MSA 27.3178(598.17)(1). See Section 5.16</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Trials	<p>If the child is not in placement, trial must be held within 6 months after the filing of the petition. If the child is in placement, trial must commence as soon as possible but no later than 63 days after the child is placed by the court unless the trial is postponed upon stipulation of the parties, where process cannot be completed, or the court finds that the testimony of a witness presently unavailable is needed.</p> <p>7 days' written or record notice to respondent, respondent's attorney, child or child's attorney, parent or guardian if other than respondent, petitioner, guardian ad litem, other person as directed by court.</p> <p>Unless a prior court appearance was in response to service by summons, the court must direct service of summons on child and his or her parent or the person with whom child resides other than court-ordered custodian. If the person with whom child resides is not a parent, parent must be served with notice in same manner and time as a summons.</p> <p>Personal service is required at least 7 days before trial. If personal service is impracticable or cannot be achieved, the court may direct service by registered or certified mail to the last known address of a party, return receipt requested, sent at least 14 days before trial, or 21 days if the person is not a Michigan resident.</p> <p>Substituted service, including by publication, permitted if service cannot be made because the whereabouts of person has not been determined after reasonable effort.</p>	<p>MCR 5.972(A). See Section 12.4</p> <p>MCR 5.921(B)(1), 5.920(C)(1). See Section 5.11</p> <p>MCR 5.920(F), 5.920(B)(2)(a). See Sections 5.1 and 5.4</p> <p>MCR 5.920(B)(4)(a)–(b) and 5.920(B)(5)(a)–(b). See Section 5.4</p> <p>MCR 5.920(B)(4)(c) and 5.920(B)(5)(c). See Section 5.4</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
<p>Case Service Plans</p> <p>*Effective July 1, 1999.</p> <p>*Effective March 1, 1999.</p>	<p>The FIA must prepare a Case Service Plan before the court enters an order of disposition. The plan must be made available to the parties and court.</p> <p><i>Court may require a “nonparent adult” to participate in development of and to comply with a Case Service Plan.*</i></p> <p><i>FIA must consult with the child’s attending or primary physician if the child was diagnosed with failure to thrive, Munchausen Syndrome by Proxy, Shaken Baby Syndrome, a bone fracture diagnosed as the result of abuse or neglect, or drug exposure.*</i></p> <p><i>Foster parent must be given copies of all Initial Service Plans, updated service plans, revised service plans, court orders, and medical, educational, and mental health reports, including reports made prior to child’s placement, within 10 days of a written request from the provider.</i></p> <p>The Case Service Plan must be updated every 90 days as long as the child remains in placement.</p>	<p>MCL 712A.18f(2); MSA 27.3178(598.18f)(2). See Section 13.19</p> <p><i>MCL 712A.6b(1)(a)–(b);</i> MSA 27.3178(598.6b)(1)(a)–(b). See Section 13.21</p> <p><i>MCL 712A.18f(6);</i> MSA 27.3178(598.18f)(6). See Sections 5.7 and 13.18</p> <p><i>MCL 712A.13a(13);</i> MSA 27.3178(598.13a)(13). See Sections 8.5 and 13.35</p> <p>MCL 712A.18f(5); MSA 27.3178(598.18f)(5). See Section 13.34</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
<p>Initial Dispositional Hearings*</p> <p>*If termination is requested at the initial dispositional hearing, see notice requirements in “Hearings to Terminate Parental Rights (Children in Foster Care),” below.</p> <p>*Effective March 1, 1999.</p>	<p>The interval between trial and disposition is discretionary with the court, but if the child is in placement, the interval may not be more than 35 days, except for good cause.</p> <p>Unless the dispositional hearing is held immediately after trial or plea, notice of hearing may be given by scheduling it on the record in the presence of the parties or in accordance with MCR 5.920.</p> <p>7 days’ written or record notice to respondent, respondent’s attorney, child or child’s attorney, parent or guardian if other than respondent, petitioner, guardian ad litem, other person as directed by court.</p> <p><i>If the child was diagnosed with failure to thrive, Munchausen Syndrome by Proxy, Shaken Baby Syndrome, a bone fracture diagnosed as the result of abuse or neglect, or drug exposure, each of the child’s physicians must be notified of the time and place of the hearing.*</i></p>	<p>MCR 5.973(A)(2). See Section 13.7</p> <p>MCR 5.973(A)(1). See Section 13.9</p> <p>MCR 5.921(B)(1), 5.920(C)(1). See Section 5.11</p> <p><i>MCL 712A.18f(7); MSA 27.3178(598.18f)(7).</i> See Sections 5.7 and 13.9</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
<p>Dispositional Review Hearings When Child Is Placed in Foster Care*</p> <p>*See also provisions for reviews of children in permanent foster family or relative placements, below.</p> <p>*Effective July 1, 1999.</p> <p>*Effective March 1, 1999.</p>	<p><i>The court must conduct review hearings no later than every 91 days as long as the child remains subject to the jurisdiction, control, or supervision of the court, FIA, or the Michigan Children's Institute.</i></p> <p>At every review hearing, the court must decide whether it will accelerate the date for the next scheduled review hearing.</p> <p>7 days' written or record notice to the agency, foster parent or custodian, parents and attorney for respondent (if parental rights have not been terminated), guardian, guardian ad litem, a "nonparent adult" (if ordered to comply with Case Service Plan),* elected leader of the Indian tribe (if tribal affiliation has been determined), attorney for the child, attorney for each party, the prosecuting attorney (if she or he has appeared), the child (if 11 years of age or older), and other persons as the court may direct.</p> <p><i>If the child was diagnosed with failure to thrive, Munchausen Syndrome by Proxy, Shaken Baby Syndrome, a bone fracture diagnosed as the result of abuse or neglect, or drug exposure, each of the child's physicians must be notified of the time and place of the hearing.*</i></p> <p>If at least 7 days' written notice is given to all parties (unless waived), and if no party requests a hearing within the 7 days, the child may be returned home without a hearing.</p>	<p><i>MCL 712A.19(3); MSA 27.3178(598.19)(3).</i> See Section 16.8</p> <p>MCR 5.973(B)(3) and MCL 712A.19(3); MSA 27.3178(598.19)(3). See Section 16.9</p> <p>MCR 5.973(B)(4), 5.920(C)(1), 5.921(B)(2) and MCL 712A.19(5); MSA 27.3178(598.19)(5). See Sections 5.6 and 16.11</p> <p><i>MCL 712A.18f(7); MSA 27.3178(598.18f)(7).</i> See Sections 5.7 and 16.11</p> <p>MCR 5.973(B)(7)(b) and MCL 712A.19(10); MSA 27.3178(598.19)(10). See Section 16.12</p>
<p>Progress Reviews for Children Remaining in Home</p>	<p>Court must review child's progress no later than 182 days after the initial disposition or 182 days after child returns home from foster care.</p>	<p>MCR 5.973(D). See Section 16.19</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Emergency Removal Hearings	<p>Court must conduct hearing no later than 24 hours after child is taken into custody, excluding Sundays and holidays.</p> <p>Notice of the initial hearing must be given to the parent in person, in writing, on the record, or by telephone as soon as the hearing is scheduled.</p> <p>If the child is removed from the home, a review hearing must be commenced no later than 14 days after placement, except for good cause shown.</p> <p>Notice of the review hearing must be given to the agency, foster parent or custodian, parents and attorney for respondent-parent (if parental rights have not been terminated), guardian, guardian ad litem, elected leader of the Indian tribe (if tribal affiliation has been determined), attorney for the child, attorney for each party, the prosecuting attorney (if she or he has appeared), the child (if 11 years of age or older), and other persons as the court may direct, in person, in writing, or on the record as soon as the hearing is scheduled.</p>	<p>MCR 5.973(E)(3). See Section 16.22(A)</p> <p>MCR 5.973(E)(3) and 5.920(C)(2)(b). See Section 5.5</p> <p>MCR 5.973(E)(4). See Section 16.22(B)</p> <p>MCR 5.973(E)(4) and 5.921(B)(2), MCL 712A.19(5); MSA 27.3178(598.19)(5). See Sections 5.11 and 16.22(B)</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
<p>Permanency Planning Hearings</p> <p>*Effective March 1, 1999.</p>	<p><i>Court must conduct permanency planning hearings no later than 364 days after the original petition is filed, and review hearings every 91 days thereafter as long as the child remains subject to the jurisdiction, control, or supervision of the court, FIA, or the Michigan Children's Institute.</i></p> <p><i>Supervising agency must strive to achieve a permanent placement within 12 months of removal.</i></p> <p>14 days' written notice to the agency, foster parent or custodian, parents and attorney for respondent-parent (if parental rights have not been terminated), guardian, guardian ad litem, elected leader of the Indian tribe (if tribal affiliation has been determined), attorneys for each party, attorney for the child and the prosecuting attorney (if she or he has appeared), the child (if 11 years of age or older), and other persons as the court may direct.</p> <p><i>If the child was diagnosed with failure to thrive, Munchausen Syndrome by Proxy, Shaken Baby Syndrome, a bone fracture diagnosed as the result of abuse or neglect, or drug exposure, each of the child's physicians must be notified of the time and place of the hearing.*</i></p> <p>If child is not returned home following hearing, the agency must initiate termination proceedings within 42 days after the hearing.</p>	<p><i>MCL 712A.19a(1); MSA 27.3178(598.19a)(1).</i> See Section 17.2</p> <p><i>MCL 722.954b(1); MSA 25.359(4b)(1).</i> See Section 17.1</p> <p>MCR 5.973(C)(3), 5.920(C)(3)(a), 5.921(B)(2) and MCL 712A.19a(3); MSA 27.3178(598.19a)(3). See Sections 5.6 and 17.3</p> <p><i>MCL 712A.18f(7); MSA 27.3178(598.18f)(7).</i> See Sections 5.7 and 17.3</p> <p>MCR 5.973(C)(4)(c) and MCL 712A.19a(5); MSA 27.3178(598.19a)(5). See Section 17.10(B)</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Dispositional Review Hearings When Child Is in Permanent Foster Family Agreement or Placement With Relative Is Intended to Be Permanent	<p><i>The court must hold review hearings not more than 182 days after a permanency planning hearing and every 182 days thereafter.</i></p> <p><i>Upon motion of a party or the court, the court may accelerate the date for the next scheduled review hearing.</i></p>	<p><i>MCL 712A.19(4); MSA 27.3178(598.19)(4).</i> See Section 19.4</p> <p><i>MCL 712A.19(4); MSA 27.3178(598.19)(4).</i> See Section 16.9</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
<p>Hearings to Terminate Parental Rights (Children in Foster Care)</p> <p>*A supplemental petition requesting termination may be filed at other times during the dispositional phase of proceedings as well. See Section 18.18.</p>	<p>If termination is not sought at the initial dispositional hearing, supplemental petition must be filed within 42 days of a dispositional review or permanency planning hearing if the court has initially determined that the child should not be returned to the parent and the agency has failed to demonstrate that initiating termination proceedings is clearly not in the child's best interests.* Court must conduct termination hearing within 42 days of filing of supplemental petition, but court may extend time for 21 days for good cause shown.</p> <p>14 days' written notice to the agency, foster parent or custodian, parents and attorney for respondent-parent (if parental rights have not been terminated), guardian, guardian ad litem, elected leader of the Indian tribe (if tribal affiliation has been determined), attorneys for each party, attorney for the child and the prosecuting attorney (if she or he has appeared), the child (if 11 years of age or older), and other persons as the court may direct.</p> <p>Unless a prior court appearance was in response to service by summons, the court must direct service of summons on child and his or her parent or the person with whom child resides other than court-ordered custodian. If the person with whom child resides is not a parent, parent must be served with notice in same manner and time as a summons.</p>	<p>MCR 5.974(F)(1)(a)–(b) and MCL 712A.19a(5); MSA 27.3178(598.19a)(5), and MCL 712A.19b(1) and (4); MSA 27.3178(598.19b)(1) and (4). See Section 18.19</p> <p>MCR 5.974(C), 5.920(C)(3)(b), 5.921(B)(2)–(3) and MCL 712A.19b(2); MSA 27.3178(598.19b)(2). See Sections 5.6 and 18.10</p> <p>MCR 5.920(F), 5.920(B)(2)(c), and 5.974(B). See Sections 5.4 and 18.10</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Hearings to Terminate Parental Rights (continued)	<p>Personal service is required at least 14 days before hearing. If personal service is impracticable or cannot be achieved, the court may direct service by registered or certified mail to the last known address of a party, return receipt requested, sent at least 21 days before hearing, or 28 days if the person is not a Michigan resident.</p> <p>Substituted service, including by publication, permitted if service cannot be made because the whereabouts of person has not been determined after reasonable effort.</p> <p><i>Court must issue opinion and order within 70 days of the commencement of the initial hearing on termination of parental rights petition. Failure to issue opinion within 70 days does not dismiss petition, however.</i></p>	<p>MCR 5.920(B)(4)(a)–(b) and 5.920(B)(5)(a)–(b). See Section 5.4</p> <p>MCR 5.920(B)(4)(c) and 5.920(B)(5)(c). See Section 5.4</p> <p><i>MCL 712A.19b(1); MSA 27.3178(598.19b)(1).</i> See Section 18.20</p>
Post-Termination of Parental Rights Review Hearing	<p><i>Court must conduct hearings at least every 91 days following termination of parental rights as long as the child remains subject to the jurisdiction, control, or supervision of the court, FIA, or the Michigan Children's Institute.</i></p> <p><i>Supervising agency must submit information to place the child in the adoption directory if an adoptive family is not identified within 90 days of the entry of the order terminating parental rights.</i></p>	<p><i>MCL 712A.19c(1)–(2); MSA 27.3178(598.19c)(1)–(2).</i> See Section 19.3</p> <p><i>MCL 722.954b(2); MSA 25.359(4b)(2).</i> See Section 19.8</p>
Review of Referee's Recommended Findings and Conclusions	<p>Request for review must be filed within 7 days after the conclusion of the hearing forming the basis for review, and a response may be filed within 7 days after the filing of the request for review.</p> <p>Absent good cause for delay, the judge must consider the request within 21 days after it is filed if child is in placement.</p>	<p>MCR 5.991(B)(3). See Sections 14.5–14.6</p> <p>MCR 5.991(C). See Section 14.7</p>

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Rehearings or Motions for New Trial	<p>Written motion must be filed within 21 days after disposition or supplemental disposition. Court may entertain untimely motion for good cause shown. Written response must be filed with the court and parties within 7 days of motion.</p> <p>If parental rights have been terminated, petition for rehearing must be filed within 20 days after entry of termination order.</p> <p>If a hearing is held, 7 days' written or record notice to the agency, foster parent or custodian, parents (if parental rights have not been terminated), attorney for respondent, guardian, guardian ad litem, elected leader of the Indian tribe (if tribal affiliation has been determined), attorney for the child and the prosecuting attorney (if she or he has appeared), the child (if 11 years of age or older), and other persons as the court may direct.</p>	<p>MCR 5.992(A) and (C) and MCL 712A.21(1); MSA 27.3178(598.21)(1). See Section 15.4</p> <p>MCL 712A.21(1); MSA 27.3178(598.21)(1). See Section 15.4</p> <p>MCR 5.921(B)(1), 5.920(C)(1). See Sections 5.11 and 15.7</p>
Appeals Following Termination of Parental Rights	<p>Request for appellate counsel must be made within 21 days after notice of the order terminating parental rights is given.</p> <p>Appeal of right must be filed within 21 days of entry of the order terminating parental rights, 21 days after entry of an order denying a timely postjudgment motion, or 21 days after entry of an order appointing or denying appointment of appellate counsel.</p> <p>Application for leave to appeal may not be granted if filed more than 63 days after entry of the order terminating parental rights or 63 days after entry of an order denying motion for rehearing.</p>	<p>MCR 5.974(H)(1)(c). See Section 18.21</p> <p>MCR 5.993(A)(2) and MCR 7.204(A)(1). See Section 21.5</p> <p>MCR 5.993(C)(1) and MCR 7.205(A). See Section 21.6</p>

